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Chairman: Mr. Yáñez-Barnuevo ..... (Spain)

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The meeting was called to order at 10.10 a.m.

Agenda item 82: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*) (A/60/33, A/60/124 and A/60/320)

1. **Mr. Omoregie** (Acting Chief, Security Council Practices and Charter Research Branch), referring to the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/60/124), said that the Secretariat was following a "two-track" approach in the preparation of the Supplements of the *Repertoire*. The drafting of the twelfth Supplement, covering the period 1993-1995, was proceeding concurrently with that of a contemporary, streamlined Millennium Supplement, covering the period 2000-2003. Work on the thirteenth Supplement, covering the period 1996-1999, was also in progress and would pick up further pace once the twelfth Supplement had been completed.

2. The Secretariat remained committed to making the drafted sections of the *Repertoire* available quickly to the reader and was therefore posting "advance versions" of individual chapters on the *Repertoire* website as soon as they were completed and approved. It also continued to submit completed chapters for editing so as to reduce the time-lag between the drafting and the publication of all the Supplements currently under preparation.

3. Contributions to the Trust Fund for the Updating of the *Repertoire* were crucial to enable the Secretariat to achieve concrete progress. He expressed gratitude to those Member States which had contributed to the Trust Fund in the past, including Belarus, Finland, France, Germany, Greece, Italy, New Zealand, Pakistan, Portugal, Switzerland and the United Kingdom. However, it was a matter of concern that no pledges had been received in over a year and that the Trust Fund remained depleted. He therefore urged Member States to make whatever contribution they could so that the publication could be brought up to date. Contributions could take the form of sponsoring an associate expert position in the relevant branch of the Secretariat, as Germany and Italy had done most recently. The Secretariat would shortly be sending letters to Member States to request such contributions.

4. **Ms. Ramos Rodríguez** (Cuba) said that the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had a crucial role to play in the current United Nations reform process, which called for, above all, ensuring effective adherence to the Charter by all Member States, re-establishing the central role of the Organization in international relations, recognizing the supremacy of international law, re-establishing the collective security system and ensuring the development of multilateralism and cooperation among States. That role was particularly important in the light of the 2005 World Summit Outcome. One of the fundamental elements of the reform process was democratization of the principal organs and, especially, revitalization of the General Assembly, as the chief deliberative, policymaking and representative organ of the United Nations.

5. Her delegation emphasized once again the need to find a permanent solution to the problem of implementation of the provisions of the Charter concerning assistance to third States affected by the application of sanctions, a matter which could not be considered separately from the issues of application of sanctions by the Security Council, reform of the Council and of its working methods, and expansion of its membership.

6. The imposition of sanctions was an extreme measure that should be contemplated only in the event of a real threat to peace or an act of aggression, when all other means of settling disputes peacefully had been exhausted and after a careful assessment of the economic, social and humanitarian impact of sanctions. As the Council acted on behalf of all Member States, the application of sanctions against a State should be based on a collective decision or should at least reflect the collective will of the rest of the Member States. The application of sanctions could not be a second privilege in addition to the veto, nor could it be a coercive instrument wielded by some permanent members of the Security Council.

7. Sanctions must have clear objectives and precise time frames. Any attempt to use them to change the political or legal system of a country or resolve disputes was an infringement of international law. Any sanctions regime must include specific and appropriate measures to ensure that the affected population received the necessary humanitarian aid. Moreover, sanctions regimes should be subject to periodic review

and adjustment, taking into account the humanitarian situation in the target State.

8. In addition, major changes were needed in the working methods of the Security Council sanctions committees, which were currently characterized by the same deficiencies as the procedures of the Council itself, such as a lack of transparency. In order for sanctions to serve as an effective and fair mechanism, a dynamic interrelationship should be established between the General Assembly and the Security Council. The Assembly should be actively involved in decision-making on the possible application of sanctions against a Member State and in subsequent monitoring of their implementation.

9. The Special Committee had before it important proposals from a number of countries, including Cuba, which should be debated. Perhaps a lack of political will on the part of certain countries, as well as shortcomings in the working methods of the Special Committee, had prevented progress on those issues.

10. She welcomed the efforts of the Secretariat to make *Repertory* studies available on the Internet in Spanish, English and French, as outlined in the report of the Secretary-General (A/60/124). However, her delegation remained concerned about the future of the publication, given the shortage of resources available for the necessary work.

11. The Special Committee had the task of contributing to a reform process that would ensure that every activity of the United Nations and of its principal organs was inspired by the letter and spirit of the Charter, served to fulfil the agreed mandates and upheld the sovereign equality of all Member States.

12. **Mr. Elageli** (Libyan Arab Jamahiriya) expressed the hope that the Special Committee would play a key role in developing United Nations reforms in the light of the lengthy consultations which had preceded the 2005 World Summit. Recalling that his country had submitted proposals on two subjects to which it attached great importance, namely sanctions and the maintenance of international peace and security, he also expressed the hope that, during the current session, the General Assembly would take action concerning the conditions and criteria for the introduction and implementation of sanctions and other coercive measures. In that connection, he supported the ideas reflected in paragraph 17 of the report of the Special Committee (A/60/33). He further supported the draft resolution contained in paragraph 56 requesting the International Court of Justice to give an advisory opinion as to the legal consequences of the resort to the use of force by a State or group of States without a decision of the Security Council taken pursuant to Chapter VII of the Charter. He emphasized the importance of publishing the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* in all official languages of the United Nations. In that connection, he proposed that a voluntary funding mechanism should be created for each individual language within the framework of the newly established Trust Fund and said that his country was prepared to contribute funds for the publication of both texts in Arabic. He also supported the recommendation on the subject contained in paragraph 68 of the report, as well as the points made in paragraph 69 with a view to improving the working methods of the Special Committee and enhancing its efficiency.

13. **Mr. Tidjani** (Cameroon) said that sanctions were an important tool for the maintenance of international peace and security. However, they could have a negative impact on civilian populations and third States. It was therefore imperative, in the application of sanctions, to pay particular attention to humanitarian issues and possible adverse effects on the socio-economic situation of the country in question. In that context, his delegation welcomed the continued recourse by the Security Council to targeted sanctions. He also encouraged the Security Council Informal Working Group on General Issues related to Sanctions to continue its efforts to improve the efficiency of sanctions.

14. His delegation agreed with the view of the outgoing Chairman of the Informal Working Group that the Group's recommendations, coupled with ideas advanced at the Interlaken, Bonn-Berlin and Stockholm processes, had resulted in tangible changes. He was pleased to note that the Chairman's proposed outcome, the fruit of five years' work by the Group, had been made public and hoped that it would now be distributed widely.

15. It was essential to provide assistance to third States affected by sanctions. His delegation would therefore continue to advocate the effective application of Article 50 of the Charter and the creation of a special assistance fund for such States. His delegation also supported the conclusions of the ad hoc expert

group convened by the Secretary-General to assess the consequences of sanctions for third States and to propose innovative measures to mitigate them. Member States, all of which were responsible for the application of sanctions imposed by the Security Council, should be given the opportunity to express their views on those conclusions. His delegation also supported the consideration by the Special Committee of various issues relating to sanctions, which could only improve the Organization's efforts to ensure the maintenance of international peace and security.

16. As the President of Cameroon had stated at the 2005 World Summit, "the settlement of disputes or conflicts through the legal system continues to be the surest method of ensuring international peace and security". Adherence to the principle of peaceful settlement of disputes required a commitment both by the parties to a dispute and by the international community to apply the relevant decisions of competent authorities, such as the International Court of Justice.

17. He welcomed the various proposals that had been made for improving the working methods of the Special Committee and hoped that they would be given due consideration. The Special Committee's mandate took on particular importance in the context of United Nations reform. He therefore welcomed the Special Committee's readiness to engage in the implementation of decisions taken at the 2005 World Summit.

18. **Mr. Tajima** (Japan) recalled that the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions had been considered by the Special Committee during its March session. Various opinions had been expressed, including the view that it was necessary to pay attention to discussions in other forums. Japan appreciated the efforts made by the Russian Federation at that session with regard to the revised working paper entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures" and hoped that further progress would be made on that issue.

19. His delegation noted with appreciation that broad support had been expressed for the revised working paper on the working methods of the Special Committee submitted by Japan, together with Australia, the Republic of Korea, Thailand and Uganda. Taking into account the views expressed by the various delegations, Japan had submitted a new revised version of the paper, as indicated in paragraph 74 of the report of the Special Committee (A/60/33). His delegation hoped that discussions would continue with a view to finalizing the paper. The purpose of the Special Committee was to strengthen the role of the United Nations, and strengthening the Special Committee itself would help fulfil that purpose. Japan therefore hoped that the Sixth Committee would continue to give priority to improving the working methods of the Special Committee and enhancing its efficiency.

20. Regarding the *Repertory of Practice of United Nations Organs*, Japan reiterated that, while it did not deny the importance of the publication, it should be noted that the Secretary-General was endeavouring to introduce administrative and budgetary reforms in the United Nations in order to increase both effectiveness and efficiency. The publication of the *Repertory* did not necessarily conform to that goal.

21. **Mr. Nguyen Duy Chien** (Viet Nam) welcomed the Special Committee's recommendation that the General Assembly should address further the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions. Viet Nam had consistently supported all efforts to improve the practical and legal aspects of sanctions and continued to endorse the working papers submitted by the Russian Federation and the Libyan Arab Jamahiriya on that issue. It was to be hoped that the Special Committee would give the papers due consideration.

22. The need to reform the United Nations, and in particular to revitalize the General Assembly, was more pressing than ever before. His delegation supported the working paper submitted by Cuba on strengthening of the role of the Organization and enhancing its effectiveness, and also the relevant papers submitted by the Libyan Arab Jamahiriya and by Belarus and the Russian Federation.

23. Viet Nam commended all efforts to reduce the backlog in publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and welcomed the progress made in the preparation of *Repertory* studies and in their posting on the Internet in three languages. It also supported the recommendation of the Special

Committee that the General Assembly should encourage voluntary contributions to the Trust Fund for Updating the *Repertoire of the Practice of the Security Council*. He thanked those Member States that had made contributions and expressed the hope that others would follow suit.

24. Viet Nam welcomed the revised working paper on the working methods of the Special Committee submitted by Japan, together with Australia, the Republic of Korea, Thailand and Uganda. However, other Member States should not be discouraged from submitting new proposals.

25. The Special Committee had recorded many important achievements over the years. However, some of the proposals currently before it had been under consideration for a long time. The Special Committee should therefore make every effort to complete its work on those proposals as soon as possible.

26. **Mr. Kanu** (Sierra Leone) said that, given the potentially disastrous effect of sanctions, they should be imposed only as a last resort. They should not be used in a vexatious or punitive manner. When applied, they should be smartly targeted. Third States affected by sanctions should resort to Article 50 of the Charter in the event of economic problems arising therefrom and should apply for compensation. In that context his delegation supported the establishment of a working group to consider the impact of sanctions on third States. Such a working group would complement the Security Council Informal Working Group on General Issues relating to Sanctions and the Analytical Support and Sanctions Monitoring Team established pursuant to Security Council resolution 1526 (2004).

27. States chose to become Members of the United Nations because they subscribed to its principles and purposes. It was therefore regrettable that some States failed to comply with the rulings of the International Court of Justice, the Organization's principal judicial organ. A party that had made an appearance before the Court had a legal and moral obligation to comply with its rulings, regardless of whether such rulings were inimical to their interests. Respect for the rule of law should apply at the international as well as the national level. In that connection, the creation of a capacity-building unit by the International Tribunal for the Law of the Sea to assist developing countries was commendable.

28. The working paper submitted by the Russian Federation, entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" warranted continued consideration and the Special Committee was the most appropriate body to discuss the issue. Further consideration should also be given to the revised working paper submitted by the Russian Federation, entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures" and the revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions. As for the revised working paper submitted by Belarus and the Russian Federation recommending that an advisory opinion be requested from the International Court of Justice, the law was very clear: the use of force without prior authorization by the Security Council was illegal. An advisory opinion could, however, bring some light to the debate on the pre-emptive use of force in the exercise of self-defence.

29. **Mr. Boonpracong** (Thailand) said that, in view of the significance and usefulness of the two publications, his delegation welcomed the establishment of the Trust Fund for the elimination of the backlog on the Repertory of Practice of United Nations Organs and the Trust Fund for the Updating of the Repertoire of the Practice of the Security Council. It also supported the recommendation that cooperation with academic institutions should be increased and interns used for the preparation of studies. As for the question of improving the working methods of the Special Committee, his delegation, as a sponsor of the revised working paper on the subject, urged the Sixth Committee to continue to give priority to the issue. The working paper was aimed at improving the efficiency of the Special Committee, but there was room for other proposals.

30. Mandatory sanctions should be applied only when all peaceful means of dispute settlement had been exhausted. They should always be targeted in support of clear objectives and implemented in a way that balanced effectiveness with the possible adverse consequences for populations and for third States. They should be imposed in accordance with the provisions of the Charter and international law and should be subject to review. His delegation therefore supported the move

to elaborate an acceptable set of basic conditions and criteria to be applied for the imposition of sanctions. The revised working paper submitted by the Russian Federation, entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures" constituted a useful basis for further discussion in that regard.

31. **Mr. Khair** (Jordan) emphasized the need to respect the Charter of the United Nations and said that Jordan attached great importance to the effective implementation of its provisions related to sanctions and assistance to third States affected by sanctions. In that connection, he supported the ideas reflected in the proposal by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures". It was also vital to devise a system for assessing the impact of preventive or enforcement measures on third States and to explore practical ways of providing assistance to those States, such as according commercial exemptions, a welcome suggestion which merited serious consideration.

32. With regard to the peaceful settlement of disputes, he emphasized the significant role of international judicial bodies, as well as the need to support fact-finding missions and facilitate their task. He appreciated the ongoing efforts of the Secretary-General to eliminate the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, in which respect he endorsed the encouragement of voluntary contributions to the Trust Funds established for that purpose. He also welcomed the placement of *Repertory* studies on the Internet without cost to the United Nations and the recommendations of the Special Committee concerning the two publications. Lastly, he expressed particular support for the Japanese proposal for improving the working methods of the Special Committee and underlined the right of any State to submit proposals for consideration.

33. **Mr. Owade** (Kenya) said that the United Nations sanctions regime played a crucial role in the maintenance of international peace and security. It was, however, important to ensure strict adherence to the relevant provisions of the Charter. Sanctions must be carefully targeted and balanced, having due regard to the consequences for populations and third States. They should be imposed for a limited period, be strictly monitored and be subject to regular review. Well-defined criteria for imposing, administering and lifting them were required. The inclusion of individuals and entities on sanctions lists should be carried out fairly and transparently, with due regard for their fundamental rights and freedoms, and there should be clearly defined procedures for listing and delisting them. His delegation urged an increased use of pre-assessment and ongoing assessment reports on the likely and actual unintended impact of sanctions. Improved coordination and cooperation between the relevant United Nations bodies would be of great assistance in that regard. The recommendations of the Security Council Informal Working Group on General Issues related to Sanctions, the ad hoc expert group on the effects of United Nations sanctions on third States and the Special Committee should provide a solid basis for the reform of the United Nations sanctions regime and for the development of guidelines. As for assistance to third States affected by sanctions, his delegation reiterated the need to seek long-term solutions to the issue, which had been on the Special Committee's agenda for several years.

34. His delegation supported the elaboration of legal principles for United Nations peacekeeping operations. Rather than shy away from the task, the Sixth Committee should explore ways of working with the Special Committee on Peacekeeping Operations to ensure congruence between the political, operational and legal aspects of peacekeeping operations.

35. As one of the 65 States that had accepted the compulsory jurisdiction of the International Court of Justice, his delegation urged States that had not yet done so to follow suit and to support its work for the peaceful settlement of disputes. Lastly, he commended the Secretariat for its efforts to eliminate the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

36. **Mr. Grippo** (United States of America) noted, in connection with the Secretary-General's report on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/60/320), that consultations under Article 50 of the Charter provided a mechanism to discuss the effects of sanctions but the Article did not require the Security

Council to take action to produce a solution to the problem. The Secretary-General's report recognized that, since May 2003, all the Council's existing sanctions regimes had been targeted and his delegation welcomed the progress made as a result. During the period covered by the report, no Member State had approached any sanctions committee concerning special economic problems arising out of the imposition of sanctions. Since compliance did entail costs in some cases, however, the United States would be prepared to give serious consideration in the international financial institutions to well-designed regional infrastructure projects that would promote trade with key markets. Countries in affected regions should also work closely with officials of the international financial institutions and with each other to identify and develop such projects.

37. The Special Committee could have a technical role to play in the implementation of decisions taken at the 2005 World Summit. In particular, his delegation supported the proposal that the Special Committee should be involved in the implementation of any decision to amend the Charter of the United Nations.

38. **Mr. Hafrad** (Algeria) said that the Committee and the Special Committee should continue to consider the question of assistance to third States affected by the implementation of sanctions. In that context, his delegation supported the recommendation that the General Assembly should consider the conclusions submitted by the ad hoc expert group. Sanctions were an extreme measure and should be imposed only when all peaceful means of dispute settlement had been exhausted. They should be in strict conformity with the Charter of the United Nations and international law and should be imposed only when the Security Council had found that there was a threat to peace or an act of aggression. Mandates should be clearly defined and time-bound. Sanctions should be targeted and attended with specific conditions. Moreover, since their aim was not to punish innocent populations or destabilize economies, careful consideration should be given to any effects that they might have. The suffering caused to the most vulnerable groups in the targeted State could thereby be tempered. His delegation supported the revised working paper submitted by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures", which had been sufficiently considered and should be finalized prior to submission to the General Assembly.

39. The complexity of peacekeeping operations underlined the need for them to have a legal framework. His delegation therefore supported the text contained in the working paper submitted by the Russian Federation, entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations". The Special Committee was the appropriate body to examine the basic legal aspects of such operations. In that context, the General Assembly should reassume its authority as the principal deliberative, legislative and representative body of the United Nations. The Special Committee should consider what measures should be taken to enable the General Assembly to fulfil its duties under the Charter. The proposals by the Cuban and Libyan delegations should be taken into account in that regard.

40. Armed force should not be used without prior authorization from the Security Council, except in cases of self-defence. As proposed in the revised working paper submitted by Belarus and the Russian Federation, an advisory opinion should be requested from the International Court of Justice as to the legal consequences of such a resort to the use of force. It was to be hoped that there would be consensus on requesting such an opinion under Article 96, paragraph 1, of the Charter, since it would serve to strengthen the legitimacy of peacekeeping operations and consolidate the system of collective security of which the Security Council was the cornerstone.

41. His delegation commended the efforts of the Codification Division to speed up the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which represented a valuable tool for the preservation of the Organization's institutional memory.

42. **Mr. Medrek** (Morocco) said that, although the Special Committee had, over its 30 years of existence, produced a number of legal instruments, it had, generally speaking, underperformed. It was well placed, however, to contribute to the legal development of the Charter of the United Nations and thus participate in the process of reforming the Organization. One important provision of the Charter related to sanctions, which should be a measure of last

resort, imposed only in the face of a threat to international peace and security, and then only in conformity with the Charter and international law. They should be imposed only when all means of peaceful settlement had been exhausted, for fear of harmful consequences both to the States concerned and to third States. They should also be time-bound, regularly reviewed and lifted when they were no longer justified or the objective had been attained. His delegation supported the idea that a working group of the Sixth Committee should be set up to consider the issue, taking into account discussions in other United Nations bodies, such as the Security Council Informal Working Group on General Issues related to Sanctions and the Analytical Support and Sanctions Monitoring Team established pursuant to Security Council resolution 1526 (2004). The revised working paper by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures", which took account of comments and proposals by other Member States, including that by the Libyan Arab Jamahiriya, constituted a useful basis for the Special Committee's consideration of the issue.

43. Although the Special Committee had made a significant contribution to the establishment of standards for the peaceful settlement of disputes, it had regrettably failed to come up with any specific proposal in that regard. As for the Trusteeship Council, his delegation had always considered that the issue should be considered within the overall framework of United Nations reform. The Special Committee should be guided by the recommendation contained in paragraph 176 of the 2005 World Summit Outcome. With regard to the Special Committee's working methods, the proposals sponsored by Japan, together with Australia, the Republic of Korea, Thailand, and Uganda would serve to improve that Committee's working methods. As for the question of new subjects, his delegation considered that the Special Committee should first deal with pending subjects.

44. He commended the measures taken to eliminate the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, both of which constituted a valuable source of information, particularly in relation to any revision of the Charter. It supported the establishment of the Trust Fund for the elimination of the backlog on the *Repertory* and encouraged cooperation with universities. The idea of putting studies of the *Repertory* on the Internet was also to be commended.

45. **Mr. Mashkoor** (Iraq) said that his delegation fully supported the recommendation of the Special Committee on the revitalization of the General Assembly in order to enable it to exercise effectively and efficiently the functions assigned to it under the Charter. The General Assembly was the Organization's principal deliberative body and was democratic in nature, and it should therefore play a greater role in the maintenance of international peace and security. On the question of the Trusteeship Council, Iraq took the view that it would be premature to change the Council's status or to abolish it. With regard to peaceful settlement of disputes, his delegation welcomed the various methods and procedures for their prevention and peaceful resolution and supported the principle of free choice of means in matters of disputes settlement. Iraq also supported the recommendation of the Special Committee regarding the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, recognizing their importance for preserving the institutional memory of the Organization.

46. **Mr. Elji** (Syrian Arab Republic), referring to the question of sanctions, said that his delegation was extremely concerned by the double standards applied as far as criteria and policies were concerned; sanctions were now more widely imposed than ever before and their credibility was frequently tarnished. He highlighted the points made in paragraphs 17, 18, 23 and 27 of the report of the Special Committee (A/60/33) in connection with both the conditions and criteria for the application of sanctions and assistance to third States affected by the application of sanctions. Third States which suffered consequential damage should be entitled not only to claim compensation but also to demand the elaboration of such conditions and criteria and of methods of preventing or minimizing the adverse effects caused by sanctions. The fact was that the problem of sanctions now encompassed humanitarian, legal and political dimensions. The revised working paper submitted by the Russian Federation on the subject was therefore extremely pertinent and merited full attention. He also hoped that the Special Committee would build on the ideas on sanctions contained in the 2005 World Summit

Outcome, which represented a first step towards developing conditions and criteria for their application.

47. He expressed his support for the working papers submitted by Cuba and the Libyan Arab Jamahiriya on strengthening the role of the Organization. In particular, he hoped that the Security Council would soon be enlarged and its work methods reformed, adding that the Special Committee should also pursue the matter of enhancing the role of the General Assembly, notably in connection with the maintenance of international peace and security. He similarly supported the proposal by Belarus and the Russian Federation to seek an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

48. He observed that the disturbing backlog in the *Repertory of Practice of United Nations Organs* would be even greater in 2006 owing to the inclusion of further years on which work had not yet begun. He therefore requested a redistribution of resources with a view to supporting preparation of the *Repertory* studies and hoped that hard copies would be published as soon as possible. He also requested information concerning the qualifications and impartiality of the interns who would be assisting in the preparation of those studies, for which expert skills were required, and called for voluntary contributions to the Trust Fund for the elimination of the backlog. Lastly, the meetings of the Special Committee should remain unchanged and equal attention should be devoted to each of the items on its agenda until their consideration was complete.

49. **Ms. Taj El Dine** (Bolivarian Republic of Venezuela) said that her delegation attached great importance to the matters under discussion, particularly those relating to the working methods of the Security Council and its sanctions committees and to the question of assistance to third States affected by the imposition of sanctions. Peaceful settlement of disputes and strengthening of the role of the United Nations, especially the General Assembly, in the maintenance of international peace and security were also important issues for her country. Her Government was convinced that the United Nations could not be fully effective unless its actions were rooted in multilateralism and the certainty that every decision was truly a decision of the international community. With respect to sanctions, they could only be justified if they were mandated by the United Nations and imposed in strict conformity with the Charter, and then only if all other alternatives had been exhausted and only if a real threat to international peace and security existed. Sanctions should not be applied as a punitive measure or used as a means of ousting the legitimate authorities of a Member State. By their very nature, sanctions should be temporary.

50. Concerning peacekeeping operations, her delegation considered that they could not be used as a substitute for efforts to address the true causes of conflicts, especially efforts by the international community to eliminate poverty, which was an essential condition for the achievement of a lasting peace. Regarding the peaceful settlement of disputes, her Government reaffirmed its position that mechanisms should be established that would lead to the resolution of disputes in the early stages and that such solutions should be freely agreed by States with free choice of means.

51. As for the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, her delegation supported continued efforts to eliminate the backlog in their publication and translation, and encouraged voluntary contributions to the Trust Funds established for that purpose.

52. Lastly, her delegation was greatly concerned that the Special Committee was proposing to take action on a document such as the 2005 World Summit Outcome, which her Government regarded as null and void and entirely without effect. The Special Committee should refrain from acting on a document that suffered from a congenital defect and therefore carried no mandate whatsoever.

53. **Ms. Ahn** Eun-ju (Republic of Korea) said that sanctions, when applied effectively, could serve their intended purpose in maintaining international peace and security. However, it was important to minimize unintended economic effects on civilians in the target country and in third countries. Regarding the peaceful settlement of disputes, her delegation noted the role of judicial organs such as the International Court of Justice and the International Tribunal for the Law of the Sea. Joint fact-finding missions or Security Council fact-finding missions could also be useful. The Republic of Korea hoped that support would coalesce around the goal of improving the working methods of

the Special Committee. In that connection, her delegation supported the revised working paper submitted by Japan and the other sponsors and suggested that the Committee should consider adopting the measures proposed therein soon.

54. **Ms. Tuğral** (Turkey) said that Turkey, as a third State that had suffered considerably from the consequences of sanctions, attached utmost importance to the implementation of the related Charter provisions and to the work of the Special Committee on the issue. A number of practical ideas for addressing the hardships shouldered by third States had been presented, including according commercial exemptions to affected third States, directly consulting with those States, prompt establishment of compensation mechanisms and giving priority to the contractors of the affected third States for the investments in the target State. Her delegation felt that in-depth discussion of the matter would add more to such measures and help identify ways to ensure their effective application. It also wished to underline the responsibility of the Security Council to act without delay in reply to applications received from third States under Article 50 of the Charter and to tackle the hardships incurred by such States.

55. Regarding the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, both were important sources of information on the work of the Organization, and Turkey welcomed the progress made towards reducing the backlog in their publication. As to peaceful settlement of disputes, her delegation reiterated its view that consent of the parties should be required in order for their disagreement to be referred to a dispute-resolving board. Lastly, with regard to the working methods of the Special Committee, Turkey believed that it had a unique character and should be utilized much more efficiently. The working paper submitted by Japan and the other sponsors contained some useful suggestions in that regard.

Agenda item 83: Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel (A/60/52, A/C.6/60/L.4)

56. **Mr. Michel** (Under-Secretary for Legal Affairs, The Legal Counsel) noted that paragraph 13 of General Assembly resolution 59/47 had requested the Secretary-General to report to the General Assembly at its sixtieth session on the measures taken to implement that resolution. Such measures included: (i) the inclusion of key provisions of the Convention in future, as well as, if necessary, in existing status-of-forces and status-of-mission agreements; (ii) advising the Security Council or the General Assembly where circumstances supported a declaration of exceptional risk; (iii) providing information, upon request, on matters of facts relevant to the application of the Convention; (iv) making available to Member States the names of humanitarian non-governmental organizations or agencies having concluded agreements with the United Nations; and (v) taking such other practical measures to strengthen the protection of United Nations and associated personnel, including locally recruited personnel, who were particularly vulnerable.

57. Regarding implementation of paragraph 6 of the resolution, a number of status-of-forces and status-of-mission agreements concluded since the Secretary-General's last report in August 2004 (A/59/226) had incorporated the key provisions of the Convention. They included the Agreement of 17 June 2005 between the United Nations and Burundi concerning the status of the United Nations Operation in Burundi, the Agreement of 18 May 2005 between the United Nations and the Democratic Republic of Timor-Leste on the status of the United Nations Office in Timor-Leste, the Agreement of 3 June 2005 between the United Nations and the Republic of Iraq concerning the activities of the United Nations Assistance Mission for Iraq (UNAMI) in the Republic of Iraq, the Agreement of 11 August 2004 in the form of an exchange of letters between the United Nations and the Government of Jordan concerning UNAMI activities in Jordan and the Agreement of 30 September 2004 in the form of an exchange of letters between the United Nations and the Government of Kuwait concerning UNAMI activities in Kuwait.

58. In addition, the following agreements containing the core provisions of the Convention were currently under negotiation: a memorandum of understanding between the United Nations and the Government of the Republic of Uganda concerning the activities of the United Nations Mission in Sudan (UNMIS) in the Republic of Uganda, a memorandum of understanding between the United Nations and the Government of the Republic of Kenya concerning the activities of UNMIS in the Republic of Kenya, a memorandum of understanding between the United Nations and the Government of the Dominican Republic concerning

activities of the United Nations Stabilization Mission in Haiti and an agreement between the United Nations and Sierra Leone on the status of the United Nations Integrated Office in Sierra Leone. The Secretary-General had also sought the amendment of the status-of-forces agreement with the Democratic Republic of the Congo for the United Nations Organization Mission in the Democratic Republic of the Congo, concluded on 4 May 2005, with a view to incorporating into it the key provisions of the Convention. Those negotiations were ongoing.

59. Concerning the recommendation of the General Assembly that the Secretary-General should advise the Security Council or the General Assembly where, in his assessment, circumstances would support a declaration of exceptional risk, in his report A/58/187 the Secretary-General, while maintaining his general reservations regarding the practicality of such a declaration, had nevertheless recommended that the General Assembly declare that there existed exceptional risk for the United Nations Operation in Afghanistan. Despite the serious security conditions under which the United Nations Office continued to operate in Afghanistan, no declaration to that effect had yet been made. However, it was expected that the new optional protocol to the 1994 Convention, once completed and adopted, would dispense with the need for a declaration of exceptional risk in the relations among its parties.

60. As for paragraph 8 of the resolution, no request has been made during the reporting period for information on matters of facts relating to the application of the Convention, and consequently no information was being provided. Similarly, there was little new to report on requests for lists of non-governmental organizations (NGOs) operating in United Nations areas of operation; the information contained in paragraph 8 of the Secretary-General's report (A/59/226) in that respect remained valid.

61. Pursuant to paragraph 10 of the resolution, and in addition to the information submitted in paragraphs 9 to 11 of the Secretary-General's report on practical measures taken to strengthen the protection of United Nations personnel and locally recruited personnel, in particular, he wished to inform the Committee that the United Nations system continued to work closely with non-governmental and intergovernmental organizations on security management. The Department of Safety and Security had established a close working relationship with the NGO consortium InterAction to share information and coordinate efforts to ensure staff security. Similar collaborative initiatives had been undertaken in the field between the United Nations security management system and international NGOs to facilitate passage to the United Nations of information on security risks or incidents of mutual concern. Those and similar initiatives were contemplated in Afghanistan, Iraq, Somalia and the Sudan and in Banda Aceh in Indonesia and the Balochistan region of Pakistan.

62. **Mr. Wenaweser** (Chairman of the Ad Hoc Committee and of the Working Group on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel) introduced the reports of the Ad Hoc Committee (A/60/52) and of the Working Group (A/C.6/60/L.4). The Ad Hoc Committee, focusing its attention on the expansion of the scope of legal protection under the Convention, had considered a text submitted by the Chairman of a draft protocol expanding the scope of legal protection under the Convention. It had also examined a proposal submitted by the delegations of China, Japan, Jordan and New Zealand which addressed the articles of the Chairman's text that remained within brackets. The Ad Hoc Committee had first discussed the draft articles of the proposals relating to the definition of a United Nations operation and the related question of including the concept of risk in the definition. The concepts of peacebuilding and emergency humanitarian assistance had been introduced as an attempt to reflect properly the element of risk in United Nations operations. The Ad Hoc Committee had then continued its discussion on the question of responsibilities of host States and United Nations personnel. Lastly, the Ad Hoc Committee had considered the relationship between the protective regime of the Convention and that of international humanitarian law, based on a proposal by Costa Rica.

63. The Ad Hoc Committee had recommended that the work to expand the scope of legal protection under the Convention should continue during the sixtieth session of the General Assembly within the framework of a working group of the Sixth Committee. It had also recommended that the revised Chairman's text appended to its report (A/60/52, annex I) should be used as the basis for the work of the working group and that the proposal by Costa Rica should be considered separately.

64. The Working Group had continued the work of the Ad Hoc Committee, considering the revised Chairman's text and focusing its debate around the concepts of peacebuilding and emergency humanitarian assistance. In particular, the Working Group had considered the question whether or not the term "peacebuilding" should be defined in the draft protocol and, if so, what kind of definition to use. Regarding the question of emergency humanitarian assistance, the debate had revolved around the procedure by which a host State could declare the non-applicability of the protocol with respect to such situations. Following the last meeting of the Working Group, informal consultations had been held to continue consideration of the draft protocol. As the Committee was aware, some delegations had presented a compromise proposal addressing all the outstanding issues. Bilateral consultations were ongoing, and a round of open-ended informal "informal" consultations would be convened to explore ways to bring the work on the protocol to a successful conclusion during the sixtieth session, as called for in the 2005 World Summit Outcome.

65. **Mr. Llewellyn** (United Kingdom), speaking on behalf of the European Union; the acceding countries Bulgaria and Romania; the candidate country Croatia; the stabilization and association process countries Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia; and, in addition, Iceland, Norway, the Republic of Moldova and Ukraine said that the European Union was deeply disturbed by the continuing attacks against United Nations and associated personnel and shocked by the list of those killed in the previous year. United Nations and associated personnel conducting operations in the field were fulfilling United Nations mandates and were acting in the common interest of the international community. The European Union unequivocally condemned such unjustifiable and unacceptable attacks and urged States to ensure that their perpetrators were brought to justice. The European Union wished to pay a tribute to those who had served and continued to serve in United Nations operations, and remembered those who had lost their lives in service.

66. While welcoming the efforts to ensure the inclusion of the core provisions of the Convention in status-of-forces and status-of-missions agreements with host States, the European Union emphasized the fundamental importance of universal acceptance of the Convention. It welcomed the measures taken at United Nations Headquarters to enhance security consciousness, including the very important step of establishing the Department of Safety and Security. The resulting enhancement of United Nations security strategies and training of personnel, including in the field, were crucial. The European Union nevertheless agreed with the Secretary-General that the United Nations was heavily reliant on cooperation from the host State in matters of safety.

67. It urged all host States to provide timely information on arrests and detentions so that the United Nations could exercise its right to protection; it also urged that perpetrators of attacks on United Nations and associated personnel should be investigated and held accountable. In view of the increasing dangers faced by both international and local staff, the European Union underlined the need for further measures to reinforce their safety and security and reiterated the call, contained in the 2005 World Summit Outcome, for all States to consider becoming parties to the Convention. Progress scope of the legal protection afforded by the Convention had been made on the protocol to expand the; the European Union hoped that, with the necessary flexibility on the part of delegations, the protocol could now be completed.

68. **Mr. Prothmann** (Namibia), speaking on behalf of the African Group, said that the Group unequivocally condemned all acts that sought to, or actually did, undermine the safety and security of United Nations and associated personnel, which were crucial for the success of United Nations operations aimed at maintaining international peace and security. The Group therefore remained deeply concerned that despite the numerous collective efforts to ensure the safety of United Nations personnel, including the Convention, the attacks on personnel, which were totally unacceptable, had not relented. The Group believed that the Convention was an important tool for strengthening the legal protection regime, but that it continued to suffer from a lack of universality. Moreover, United Nations and associated personnel participated in undertakings that had grave security consequences which the Convention did not address. The establishment of the Ad Hoc Committee to explore the modalities for strengthening the existing legal regime or formulating an optional protocol was therefore timely and welcome. The protocol must, however, adequately cover all engagements in which

United Nations and associated personnel faced exceptional risks, and achieve universal acceptance. Clarity and legal precision would be necessary in order to enhance the implementation of the protocol.

69. Although no effort should be spared to finalize the protocol, it should be remembered that personnel needed urgent protection now. The African Group therefore welcomed General Assembly resolution 59/47 and especially paragraphs 2 and 3 thereof. The Group took note of the Secretary-General's report (A/59/226), which stated that a number of status-of-forces and status-of-missions agreements incorporating the key provisions of the Convention had been concluded between the United Nations and Member States. The Group drew attention to the fact that most of those States were African. While the African Group fully supported Security Council resolution 1502 (2003), finding its step-by-step approach helpful, and fully accepted the responsibility of Member States to ensure the safety of United Nations and associated personnel within their territories, it also emphasized the reciprocal duty of such personnel to respect and obey the laws of host States. In that regard, a system of accountability must be established, and in cases where the individual in question was extradited or returned to the home country, that country must duly inform the host State of the outcome of the legal action taken against him. In addition, the United Nations must provide consistent and adequate practical and operational security measures, including adequate financing, equipment and training, for personnel in the field, in order to supplement the efforts of host States.

70. Furthermore, all United Nations operations should be adequately manned and equipped to ensure the execution of their mandates. There was no gainsaying that in some conflict theatres, some troublesome elements could be encouraged to engage in irregular activities, particularly where personnel were spread thinly. It was essential to emphasize the need for impeccable comportment on the part of United Nations personnel. Efforts under way to achieve that end were of crucial importance.

71. **Mr. Samie** (Pakistan) said that Pakistan's troops had served in more than 30 United Nations peacekeeping missions including some of the most difficult and dangerous ones, where their role had often been pivotal. They had worked in precarious situations in order to stabilize societies and build peace. Such peacemakers formed part of the "thin blue line" that protected the peace, providing security, bolstering stability, and protecting vulnerable populations. To date, 93 Pakistani peacekeepers had paid the ultimate price for the cause of peace. Pakistan was one of the oldest, largest and most consistent participants in United Nations peacekeeping operations, and had played a significant part in forging United Nations peacekeeping as an instrument to promote international peace and security. In the wake of the recent earthquake in which many thousands had lost their lives or been injured, Pakistan had also been a recipient of international assistance. The adoption of the optional protocol therefore held special significance for Pakistan.

72. Pakistan condemned all acts of violence against United Nations and associated personnel, who should receive better protection The scope of the legal protection offered under the Convention should therefore be expanded, despite the difficulties which that involved. That would entail discussing the actual scope of the protection, the circumstances in which it would be available, the responsibilities it would involve and its legal and political ramifications. The scope of the protection should be extended to cover conflict and post-conflict situations, including transitional reconstruction phases, but not pre-conflict situations. Moreover, in cases of natural disaster, emergency humanitarian assistance operations should be carried out only with the consent of the host States. In that regard, the United Kingdom proposal was a good basis for compromise, since it provided a procedure under which a host State could declare the non-applicability of the optional protocol with respect to an operation undertaken in response to a natural disaster under article II, paragraph 1 (b). The host State could make such a declaration subsequent to the disaster and prior to the initiation of the operation. Pakistan hoped that the outstanding issues could be promptly resolved, so that the optional protocol could be concluded.

73. **Mr. Tajima** (Japan) said that his Government regarded the Convention as an important means of guaranteeing the safety of United Nations and associated personnel, and had urged that its scope should be expanded and that more States should become parties to it. Japan believed that clarity concerning the scope of application was essential if the protocol was to apply in domestic courts, and would also help host States as well as United Nations and

associated personnel in the field. In order for the protocol to be effective, and for as many States as possible to become parties to it, the position of all States should be reflected as far as possible. Japan therefore hoped that States would show flexibility, bearing in mind the primary aim, which was to ensure the safety of United Nations and associated personnel.

74. In the light of the growing risks to the personnel concerned, Japan attached great importance to the expanded legal protection that a protocol would offer. It welcomed the increase in the number of States parties to the Convention, to 79, and looked forward to further progress in that regard.

75. **Mr. Hmoud** (Jordan) said he hoped that after long and intense negotiations, the draft protocol would be adopted soon. The call in the 2005 World Summit Outcome for the adoption of the protocol at the current session demonstrates both the urgency of the matter and the need to make the most of the underlying momentum. The inherent risks associated with United Nations operations involving the delivery of humanitarian, political and development assistance in peacebuilding necessitated the extension of the scope of the Convention to such operations. The agreement between the Organization and a host State prior to the initiation of an operation was critical in determining whether the operation was in fact a peacebuilding one and would serve as basis for implementing the obligations of the protocol. It would be difficult to refer to an operation as a peacebuilding one if that was not the case, and the United Nations could be trusted to make the proper determination in that regard, in cooperation with the host State.

76. Delivering emergency humanitarian assistance was also risky, and required sufficient legal protection. In the case of natural disasters, the sovereign State must have the right to declare that its national legal system was able to provide the necessary legal protection and that there were no specific risks associated with the relevant United Nations operation. Such a declaration should be withdrawn if attacks on such an operation in fact occurred.

77. Another important provision in the draft protocol was the right of a State to exercise its national jurisdiction over personnel who violated its laws. There were no reasonable grounds for granting immunity to United Nations and associated personnel who violated national laws, and such immunity would be inimical to the universality of the protocol.

78. During the most recent session of the Ad Hoc Committee, China, Japan, Jordan and New Zealand had submitted a joint proposal which aimed to address the concerns of the various parties. The Government of Jordan hoped that the proposal would move the debate forward; only a few minor issues remained outstanding, and they could be resolved with good faith.

79. **Mr. Kapoma** (Zambia) said that, as a troop-contributing country, Zambia attached great importance to the safety and security of United Nations and associated personnel, and was proud of its record of contributions to peacekeeping operations. It was, however, deeply concerned about the limitations to the current scope of legal protection, in particular, the inadequate protection for humanitarian personnel and journalists; the scope of legal protection for United Nations and associated personnel urgently needed to be broadened and strengthened. Invoking the 2005 World Summit Outcome, he said that Member States should be flexible in the negotiations on the draft protocol, so that progress could be made.

The meeting rose at 1.05 p.m.